

obtaining access. Costs shall include all direct and indirect costs, including, but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, cooperative agreement costs, compliance monitoring, including the collection and analysis of split samples, inspection of RI/FS activities, Site visits, discussions regarding disputes that may arise as a result of this Consent Order, review and approval or disapproval of reports, costs of performing the focused baseline risk assessment, and costs of redoing any of Respondent's tasks. Any necessary summaries, including, but not limited to EPA's ~~certified Agency Financial Management Systems summary data (SPURSCORE\$ Reports)~~, or such other summary as certified by EPA, shall serve as basis for payment demands.

76. Respondent shall, within 60 days of receipt of each accounting, remit a certified or cashier's check for the amount of all uncontested costs. Interest shall accrue from the later of: the date payment of a specified amount is demanded in writing; or the date of the expenditure. The interest rate is the rate of interest on investments for the Hazardous Substances Superfund in Section 107(a) of CERCLA. Respondent reserves and retains the right to pursue claims against other "persons" as defined in Section 101(21) of CERCLA for contribution or indemnity for these costs.

77. Respondent shall make payment by forwarding a certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check shall reference the name and address of the party making payment, the site name, the EPA Region and SSID NUMBER 08-94, and the EPA docket number for this action, and shall be sent to:

Regular mail:

Mellon Bank  
EPA Region VIII  
Attn: Superfund Accounting  
Post Office Box 360859  
Pittsburgh, Pennsylvania 15251-6859

Express Mail:

Mellon Bank  
3 Mellon Bank Center  
ROOM#153-2713  
Pittsburgh, Pennsylvania 15259

or other such address as EPA may designate in writing or by wire transfer to:

ABA=021030004  
TREAS NYC/CTR/  
BNF=/AC-68011008

Wire transfers must be sent to the Federal Reserve Bank in New York.

78. At the time of payment, Respondent shall send notice that such payment has been made to:

Enforcement Specialist,  
Richardson Flat Tailings Site  
U.S. EPA Region 8  
Suite 500300 (8ENF-T)  
999 18<sup>th</sup> Street  
Denver, CO 80202-2466

79. Copies of the transmittal letter and check should be sent simultaneously to the EPA Project Coordinator.

80. If Respondent disputes any costs due to accounting errors, the inclusion of costs outside the scope of this Consent Order, or that such costs are inconsistent with the NCP, Respondent shall identify any contested costs and the basis of its objection. All undisputed costs shall be remitted by Respondent in accordance with the schedule set forth above. Disputed costs shall be paid by Respondent into an escrow account while the dispute is pending. Respondent bears the burden of establishing an EPA accounting error, the inclusion of costs outside the scope of this Consent Order, or inconsistency with the NCP.

#### XXIII. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS

81. EPA reserves the right to bring an action against the Respondent under section 107 of CERCLA for recovery of all response costs including oversight costs, incurred by the United States at the Site that are not reimbursed by the Respondent, any costs incurred in the event that EPA performs the RI/FS or any part thereof, and any future costs incurred by the United States in connection with response activities conducted under CERCLA at this Site.

82. EPA reserves the right to bring an action against Respondent to enforce the RI/FS response and oversight cost reimbursement requirements of this Consent Order, to collect stipulated penalties assessed pursuant to Section XIX of this Consent Order, and to seek penalties pursuant to Section 109 of CERCLA, 42 U.S.C. Section 9609.

83. Except as expressly provided in this Consent Order, each party reserves all rights and defenses it may have. Respondent specifically reserves its rights and defenses regarding liability or responsibility in any proceedings regarding this Site other than proceedings to enforce this Consent Order. Nothing in this Consent Order shall affect EPA's removal authority or EPA's response or enforcement authorities including, but not limited to, the right to seek injunctive relief, stipulated penalties, statutory penalties,

Section 3717. Respondent shall further pay a handling charge of 1 percent, to be assessed at the end of each 31 day period, and a 6 percent per annum penalty charge, to be assessed if the penalty is not paid in full within 90 days after it is due.

60. Respondent shall make all payments by forwarding a certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check shall reference the name and address of the party making payment, the site name, the EPA Region and SSID NUMBER 08-94, and the EPA docket number for this action, and shall be sent to:

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or other such address as EPA may designate in writing or by wire transfer to:

ABA=021030004  
TREAS NYC/CTR/  
BNF=/AC-68011008

Wire transfers must be sent to the Federal Reserve Bank in New York.

61. At the time of payment, each Settling Party shall send notice that such payment has been made to:

Enforcement Specialist  
Richardson Flat Tailings Site  
U.S. EPA Region 8  
Suite 500300 (8ENF-T)  
999 18<sup>th</sup> Street  
Denver, CO 80202-2466

62. For the following major deliverables, stipulated penalties shall accrue in the amount of \$250 per day, per violation, for the first seven days of noncompliance; \$500 per day, per violation, for the 8th through 14th day of noncompliance; \$1,000 per day, per violation, for the 15th day through the 30th day; and \$2,000 per day per violation for all violations lasting beyond 30 days.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

FACSIMILE COVER SHEET

TO: Kevin Murray

Agency/Company: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Phone Number : \_\_\_\_\_

Fax Number 801-359-9256

Number of Pages (Including Cover Sheet) \_\_\_\_\_

LEGAL ENFORCEMENT

Receptionist #303-312-6163

Fax #303-312-6953

FROM: Madigan

SENDER'S PHONE#: \_\_\_\_\_

COMMENTS: Substitute pages on AOC plus  
redline - lets discuss at 10:00

Date Sent: 9/18/00

Sender: \_\_\_\_\_

Time Sent: \_\_\_\_\_

☐ Hard Copy to follow

☒ Hard Copy will not be sent

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